



# Joint Legislative Audit and Review Committee

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## Workers' Compensation Performance Audit Report 98-9

The 1997 Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to contract for a performance audit of the workers' compensation system in Washington. JLARC selected a team headed by Professor Ed Welch, a workers' compensation expert from Michigan State University, to conduct the audit.

The audit found that, overall, Washington's system is quite efficient in that insurance premiums to employers are relatively low while benefits provided to workers are relatively high in comparison to other states.

The audit found that many customers of the system, both employers and injured workers, are quite dissatisfied with the operation of the system. This dissatisfaction may be partially due to problems with the way claims by injured workers are handled. The audit recommends a reorganization of the claims management function at the Department of Labor and Industries (L&I), and less state oversight over the claims management function of self-insured employers. Also recommended is a less formalistic process for closing claims as well as for resolving disputes involving workers' compensation claims.

The audit also found problems relating to the provision of vocational rehabilitation services to injured workers, efforts by L&I to promote workplace safety, and with how workers' compensation premiums are calculated. Several recommendations address these problems and suggest solutions to them.

### Financial Outcomes

The audit found that premiums paid by employers in Washington are in the lowest 25 percent of all states while benefits received by workers are in the highest 25 percent of all states. The coexistence of low premiums and high benefits may, in part, be explained by the usage of an exclusive state fund for the provision of

workers' compensation. Private workers' compensation insurers in other states are subject to several costs not incurred by a fund operated exclusively by the state.

### Injured Worker Outcomes

Most injured workers return to work fairly quickly, but some do not. Workers employed by self-insured employers return

to work more quickly in the short-term, but over the long-term, there is little difference in return-to-work rates between self-insured employers and employers insured by the state fund.

### **Workers' Compensation Claims Management**

The L&I claims management process is excessively formal and is oriented toward finding an injured worker to be employable (which allows the benefits to be terminated) rather than returning the worker to work. The organization of the claims management function is different than in the private insurance industry and does not promote personal contact of L&I claims managers with claimants, physicians, and employers. The report recommends the claims management function be reorganized. Claims management staffing was found to be adequate to address the workload under the reorganized claims process.

Oversight by L&I over the claims management of self-insured employers exceeds such oversight in other states. The audit recommends this oversight be eliminated following the creation of an ombudsman and mediation function for injured workers of self-insured employers

who may be dissatisfied with the handling of their claim.

### **Dispute Resolution**

The audit found that Washington's system of resolving disputes over workers' compensation claims is overly formalistic and more complex than other jurisdictions. It recommends reducing the complexity of the dispute resolution process.

### **Vocational Rehabilitation**

The system for the provision of vocational rehabilitation services to injured workers is oriented to finding injured workers to be employable rather than returning them to work. Vocational rehabilitation benefit levels are relatively small in comparison to other states, but are provided to more injured workers in Washington. The process for selecting private vocational rehabilitation providers on the basis of performance criteria needs to be improved.

### **Actuarial Analysis**

Washington's system for determining overall premiums and reserves for the workers' compensation system is adequate, but generates some inequities among rates paid by different employers.

## **Recommendations**

The report includes 32 recommendations that are intended to improve the functioning of the workers' compensation system. The recommendations involve changes in the structure of the system, the organization of the claims management function, the dispute resolution process, the provision of vocational rehabilitation services, L&I's efforts to promote workplace safety, and how workers' compensation premiums are set.